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DRAFT DECLARATION ON THE BASIC PRINCIPLES AND CRITERIA FOR THE WORK OF UNITED NATIONS PEACEKEEPING MISSIONS AND MECHANISMS FOR THE PREVENTION AND SETTLEMENT OF CRISES AND CONFLICTS

Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations

Working paper submitted by the Russian Federation

The legal basis for peacekeeping operations in the context of Chapter VI of the Charter could include primarily the following fundamental elements:

- Purpose: removal of the threat to international peace and security in accordance with Chapter VI of the Charter of the United Nations and creation of conditions conducive to a political settlement;

- The legal foundation for the competence of the United Nations to establish peacekeeping operations;

- Obligatory chain of command on the United Nations side (Security Council, Secretary-General, command of the operation);

- Components of operations: military, civilian, police, humanitarian;

- Basic principles of peacekeeping operations: neutrality, impartiality, non-interference in the internal affairs of the parties to the conflict; need for the consent of the receiving State (of the parties to the conflict) and the transit States; non-use of force except in cases of self-defence and cases established by the mandate of the operation;

- The mandate of peacekeeping operations should include a clear indication of who is authorized to do what, taking into account possible combined objectives and the existence of a number of components of the operation. In particular, reference might be made to such functions as ceasefire, truce and other agreements; border control and patrolling, separation of the hostile parties; assistance in the maintenance of law and order at the request of the Government of the receiving State; ensuring the safety of personnel and other persons in accordance with the mandate of the operation; assistance in the conduct of elections; demobilization and disarmament of armed formations; provision in the provision of humanitarian assistance;

- The undisputed right of self-defence;

- Machinery for the conduct of peacekeeping operations: legal basis for determining the budget of peacekeeping operations; conditions for the contribution of national contingents; agreements with the receiving State and the States of transit; the role of the Secretariat;

- Provisions relating to the personnel of peacekeeping operations: the 1994 Convention on the Safety of United Nations and Associated Personnel; requirements placed on the personnel; payment; insurance; compensation in the event of injury or death; rules of conduct, including inspection under humanitarian law; rules for the bearing of arms, etc.;

- Responsibility of the United Nations and States with respect to participation in peacekeeping operations: responsibility of the Secretary-General for the organization, planning, coordination and leadership of peacekeeping operations; apportionment of responsibility between the United Nations and troop-contributing States for damage caused in the course of an operation by United Nations personnel through actions not prohibited by international law; criminal jurisdiction of States over their nationals forming part of the personnel of peacekeeping operations.